THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 999 of 2001

O r d e r:

Assailing the award dated 05.06.2000, passed by the Industrial Tribunal-cum-Labour Court, Visakhapatnam, the petitioner filed this writ petition.

The petitioner joined as Field Man in the service of respondent No.1-Chuchukonda Primary Agricultural Co-operative Society on 01.09.1978. The petitioner states that in 1997, upon completion of 20 years, he made a request to the President of respondent No.1 to release an amount of Rs.75,000/- from his Provident Fund Account, but the same was refused, and that he questioned the President of respondent No.1 as to how he had released the same to the Secretary. While so, the petitioner states that some of the members of the PACS lodged complaint against the President of respondent No.1 alleging mismanagement by him. The petitioner states that the President of respondent No.1 feeling that he was responsible for the complaint, to wreck vengeance, fabricated a complaint against him that he produced false school record sheet etc., and based on such fabricated complaint, issued show cause notice. The petitioner states that, he submitted his explanation to the show cause notice, but respondent No.1 without considering the same, vide orders dated 27.11.1997 terminated his services. Assailing the order of termination, the petitioner raised an industrial dispute in I.D. No. 85 of 1998 before the Industrial Tribunal-cum-Labour Court, which by order impugned in this writ petition, dismissed the I.D.

Heard the learned counsel for the petitioner, the learned Standing Counsel for respondent No.1 and the learned Government Pleader for respondent No.2.

The learned counsel for the petitioner submitted that respondent No.1 terminated his services on the ground that he produced false study certificate. He submitted that respondent No.1 before terminating the services of the petitioner neither conducted departmental enquiry nor issued reasonable or sufficient opportunity to putforth his case, and even though respondent No.1 did not place any material to show that reasonable or sufficient opportunity was given to the petitioner before terminating his services, yet the Labour Court, without appreciating the evidence on record properly, held that the petitioner failed to avail the opportunities given to him. He thus prayed that the impugned order be set aside and the writ petition be allowed.

The learned Standing Counsel for respondent No.1 and the learned Government Pleader for Labour submitted that though the petitioner was given reasonable and sufficient opportunity to put forth his case, he failed to appear for personal hearing before respondent No.1, and in those circumstances, the matter was placed before the Executive Board of respondent No.1, which after taking into the consideration

the material placed before it, passed resolution for terminating the services of the petitioner, and accordingly, the petitioner was terminated vide orders dated 27.11.1997, which the Industrial Tribunal in I.D. has rightly upheld, and no interference is called for by this Court in exercise of its certiorari jurisdiction. They thus prayed that the writ petition be dismissed.

The parameters and scope of judicial review of this Court under article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is further well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. The apex Court in **Surya Dev Rai v. Ram Chander Rai**, held that certiorari under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate Court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

Therefore, it is within the parameters, as stated above, the impugned award of the Labour Court, has to be examined

There is no dispute about the fact that no departmental or domestic enquiry was conducted by respondent No.1 before terminating the services of the petitioner. Though the petitioner contends that no opportunity whatsoever was given by respondent No.1 before terminating his services, it is the specific case of respondent No.1 that though reasonable opportunity was given to the petitioner to put forth his case, he failed to make use of the same. The fact that the petitioner failed to make use of the opportunities provided to him by respondent No.1, in fact, is evident from the award of the Labour Court, which upon appreciation of the material evidence placed on record by respondent No.1, particularly Memo-Ex. M9, which sought to give personal hearing to the petitioner. The petitioner upon receipt of Ex. M9-Memo got issued legal notice under Ex. M11, to which respondent No.1 issued reply legal notice under M17. Respondent No.1, immediately, thereafter, issued Ex. M4 calling upon the petitioner to appear for personal hearing. But the petitioner despite receipt of the same, did not appear for personal hearing. It is in those circumstances, the Industrial Tribunal came to the conclusion that the petitioner despite being afforded sufficient opportunities, failed to appear for personal hearing. The Industrial Tribunal further found that as the petitioner failed to appear for personal hearing, the matter was placed before the Executive Board, who vide their resolution marked as Ex. M15, resolved to terminate the services of the petitioner, and in pursuance of which the impugned order of termination was passed. Inasmuch as the petitioner failed to make use of the opportunities given to him to defend his case, the Industrial Tribunal, came to the conclusion that it was not a case where no opportunity was given to the petitioner to have a domestic enquiry. This apart, the Industrial Tribunal

found that the record sheet produced by the petitioner was false, for the Head Master, who is said to have issued the said record sheet, disputed its issuance. Therefore, no exception can be taken to the award passed by the Industrial Tribunal, upholding the order of termination passed by respondent No.1, which has the backing of the resolution of the Executive Board of respondent No.1. The award of the Industrial Tribunal, viewed from any angle, does not call for interference by this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India.

In the above view of the matter, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 15th June, 2006.

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